IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1136 OF 2007

1. Zameer Ahmed Latifur Rehman Sheikh, aged 32 years, Occupation : Key Maker, R/o.: 100/L, Vallabhbhai Patel Nagar, Lotus Colony, Worli, Mumbai – 400 018.
2. Shabeer Ahmed Masiullah, aged 36 years, Occupation : Business, R/o. Marshal Battery, Near Petrol Pump, Badshah Khan Nagar, Malegaon, Dist. Nashik.
3. Mohd. Muzaffar Mohd. Tanveer, aged 24 years, Occupation : Driver and Cutlery Shop, R/o. 1/11/78, Daulat Sgulshan, Juna Bazar, Aurangabad. ... Petitioners

Versus

1. The State of Maharashtra through A.G.P.'s office, O.O.C.J., High Court, Mumbai.
2. The Union of India, through Central Bureau of Investigation, 2nd floor, Ayakar Bhawan, New Marine Lines, Churchgate. ... Respondents

Mr. P.A. Sebastian with Mr. Shahid Azmi for the petitioners.

Mr. Harish Salve, senior counsel with Mr. S.G. Aney, senior

counsel, Mr. Deepak Nargolkar, Mr. R.B. Thakore and Mr. A.M. Chimalkar for respondent 1.

CORAM : SWATANTER KUMAR, C.J. &
SMT. RANJANA DESAI, J.

DATE ON WHICH THE JUDGMENT RESERVED : 3RD JULY, 2007.

DATE ON WHICH THE JUDGMENT PRONOUNCED : 19TH JULY, 2007.

JUDGEMENT:- (Per Smt. Ranjana Desai, J.)

1. Petitioner 1 is one of the thirteen accused in the case relating to serial bomb blasts which took place in the suburban trains of Western Railways on 11/7/2006, being MCOCA Special Case No.21 of 2006. Petitioner 2 is one of the nine accused in the case concerning four bomb explosions which took place in the compound of Hamididya Masjid and Baba Kabrastan and nearby Mushawarat Chowk on 8/9/2006 being MCOCA Special Case No.23 of 2006. Petitioner 3 is one of the nineteen accused in the case relating to seizure of arms in Aurangabad on 9/5/2005 and on some subsequent days, being MCOCA Case No.16 of 2006.

2. In this petition filed under Article 226 of the Constitution of India (for short, “the Constitution), the petitioners have challenged the constitutional validity of that part of section 2(1)(e) of the Maharashtra Control of Organised Crime Act, 1999 (for short, “the MCOCA”) which refers to insurgency. For this purpose, we need not go into all the facts. It is, however, necessary to have some idea about the charges levelled against the petitioners in the respective charge-sheets.

3. In MCOCA Special Case No.21 of 2006, the charge-sheet, inter alia, says that the accused in the said case hatched a criminal conspiracy sometime in the year 1999 such as waging war against the Government of India, creating instability in the State of Maharashtra and India by indulging in organized subversive activities. The charge-sheet, further, states that the modus operandi of the accused conforms to the professional ideology and agenda of Lashkar-e-Toiaba. The charge-sheet further alleges that the accused were either members of Students Islamic Movement of India (for short, “SIMI”) or were associated with it. The charge-sheet mentions that in collaboration with SIMI and Lashkar-e-Toiaba, the accused wanted to wage war against the Government

of India by striking terror in the minds of people by use of violence or force by causing large scale destruction of life and property in order to cripple the national economy through disruption of Public Transport System which tantamounts to insurgency.

4. The charge-sheet in MCOCA Special Case No.23 of 2006, inter alia, states that the accused therein had received arms training in Pakistan and were indoctrinated to carry out insurgent and terrorist activities in India. The charge-sheet further states that the basic aim of the accused was to wage war against the Government. For that purpose, they collected men and explosives. The charge-sheet further states that the accused are part of terrorist organization SIMI, who with the help of some others, exploded bombs and killed people.

5. The charge-sheet in MCOCA Special Case No.16 of 2006, inter alia, states that the accused are members of a terrorist gang. The accused wanted to create disaffection against the Government and carry out widespread terrorist activities to destabilize the Government and break down the infrastructure and create chaos. The charge-sheet further states that some of the accused had

gone to Kashmir and received arms training there from Lashkar-e-Toiba. The charge-sheet further states that the huge cache of arms which was recovered from the accused was brought for the purpose of carrying out terrorist activities and fostering insurgency. In all the three cases, therefore, it appears to be the case of the prosecution that the petitioners are engaged in unlawful activities with the objective of promoting insurgency.

6. Before we deal with the submissions of Mr. Sebastian, the learned counsel appearing for the petitioners, we must note that the constitutional validity of the MCOCA was challenged in this court in a group of writ petitions and this court in ***Mr. Bharat Shantilal Shah, Smt. Shamim Mirza Arif Begand& Mr. Sanjay Patil v. The State of Maharashtra, 2003 Bom.C.R. (Cr.) 947*** held that the MCOCA is constitutionally valid except certain provisions which were struck down. This court specifically upheld the validity of section 2(1)(e) thereof. When confronted with this judgment, Mr. Sebastian contended that in ***Bharat Shah's case (supra)***, there was no specific challenge to the constitutional validity of the part of section 2(1)(e) of MCOCA which refers to

insurgency and, hence, the petitioners can raise that challenge in this petition. In this connection, he relied on the judgment of the Supreme Court in ***Saiyada Mossarrat v. Hindustan Steel Ltd. Bhilai Steel Plant Bhilai (M.P.) & Ors., (1989) 1 SCC 272.***

7. Mr. Sebastian contended that insurgency is a condition of political revolt against the Government established by law in which arms are used and violence is committed. He submitted that the crime "promoting insurgency" does not fall under Entry No.1 of List II (State List) or under Entry No.1 of List III (Concurrent List) of the Seventh Schedule of the Constitution or in any other entry of the above said List II and List III of the Constitution. He submitted that Entry No.1 in the State List pertains to public order and public order is a disorder of much lesser gravity and insurgency cannot be covered by public order. According to Mr. Sebastian "insurgency" falls within the ambit of Entry No.1 of Union List relating to defence of India and in any event under the residuary power conferred on Parliament under Article 248 read with Entry 97 of the Union List and, therefore, the Maharashtra State legislature did not have legislative competence to enact the latter part of section 2(1)(e)

which relates to promoting insurgency. Hence, according to him, part of section 2(1)(e) which refers to insurgency is ultra vires Article 246(3) of the Constitution.

8. Mr. Sebastian then urged that assuming that insurgency is covered by Entry No.1 of List III i.e. the concurrent list, the Union Law prevails over the State Law under two circumstances - a) when the State Law conflicts with the Union Law, the Union Law prevails unless the State Law has been reserved for the assent of the President and has received the assent and b) the Union Law covers completely the same area and the same subject as the State Law does.

9. Mr. Sebastian submitted that clause (2) of Article 254 lays down that nothing shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or replacing the law so made by the legislature of State either directly, or by itself enacting a law repugnant to the State Law with respect to the same matter.

10. Mr. Sebastian contended that the MCOCA was reserved for the consideration of the President as required under Article 254(2) and it received the assent of the President, however after the enactment of the MCOCA, the Indian Parliament enacted the Prevention of Terrorism Act (for short, “POTA”). The MCOCA became inoperative because POTA was intended to curb terrorism and insurgency. Subsequently POTA was repealed on account of its misuse and Unlawful Activities Prevention (Amendment) Act, 2004 was enacted and incorporated in the Unlawful Activities Prevention Act, 1967 (for short, “UAPA 1967”). The new provisions incorporated in UAPA, 1967 which intend to curb terrorism and insurgency like POTA have made the MCOCA inoperative. They cover the whole field under Entry No.1 of List III of the Seventh Schedule. They deal with the same subject and as per Article 254, the Unlawful Activities (Prevention) Amendment Act, 2004 which was incorporated in UAPA 1967 must prevail over the MCOCA so far as insurgency is concerned. He submitted that insurgency and terrorism are two sides of the same coin.

11. Mr. Sebastian further submitted that there is a conflict

between the provisions of the MCOCA and UAPA, 1967 as amended in 2004. He pointed out that a State Law would be repugnant to the Union Law when there is direct conflict between the two laws. Such repugnancy may also arise when both laws operate in the same field and the two cannot possibly stand together. In such a situation, even though the subsequent law made by Parliament does not expressly repeal a State Law even then the State Law will become void as soon as the subsequent law of Parliament creating repugnancy is made. There is implied repeal. Mr. Sebastian contended that in this case by reason of the repugnancy stated above, there is an implied repeal of the MCOCA.

12. As against this, Mr. Salve, the learned senior counsel contended that in ***Bharat Shah's case (supra)***, this court has upheld the constitutional validity of the MCOCA, particularly section 2(1)(e). It is, therefore, not open to the petitioners to raise the same challenge again. In this connection, Mr. Salve relied on the judgment of the Supreme Court in ***Kesho Ram & Co. & Ors. etc. v. Union of India (UOI) & Ors, (1989) 2 SCR 1005***.

13. M/s. Salve also submitted that challenge to the vires of a provision could be raised provided the said question arises on the facts disclosed. In this connection, he relied on the judgment of the Supreme Court in ***Delhi Cloth & General Mills Ltd. v. Shambhu Nath Mukherji & Ors. (1977) 4 SCC 415*** where the petitioners were not allowed to raise the vires of section 2A of the Industrial Disputes Act, 1947 on the ground of legislative incompetency. The Supreme Court made it clear that before a constitutional question could be raised it must be manifest on the records that the question arose on the facts disclosed. Mr. Salve contended that the principle enunciated by the Supreme Court in this case is clearly applicable to the present case.

14. Mr. Salve further contended that the words “Defence of India and every part thereof” confer upon Parliament the exclusive competence to make laws with respect to the said subject. Parliament may incidentally also make a provision that would treat as a criminal offence an infraction of the law. The State Legislature may by virtue of Entry No.1 of List III enact any laws with respect to

the subject of `Criminal Law'. In certain situations, there may be incidental overlap which, submitted Mr. Salve, does not invalidate either of the laws.

15. Mr. Salve further contended the MCOCA defines a series of acts that would constitute an offence, provides a punishment for the offence and also creates a special machinery for trial of these offences. It has received presidential assent. It falls within the field delineated by Entry Nos.1 and 2 of List III. He submitted that the offence of terrorism, as defined under the UAPA 1967 as amended in 2004 is not the same as the offence defined under the MCOCA. The offence under the MCOCA, insofar as it includes `promoting insurgency' does not impinge on the offence of `terrorism' as is defined in the UAPA 1967 as amended in 2004 in a manner so as to be either repugnant to the law or create a situation of unworkability. He submitted that promoting insurgency is one of the facets of terrorism, as also one of the facets of the offences under the MCOCA. This is perfectly permissible under the Law and, therefore, the challenge to section 2(1)(e) on the ground of repugnancy must be rejected.

16. We must first refer to the judgment of this court in ***Bharat Shah's case (supra)***. In that case, the constitutional validity of the MCOCA was under challenge. There was a specific challenge to the definitions contained in section 2(1)(d)(e) and (f). The definitions were quoted. It was argued before this court that these definitions are so interwoven and interdependent that they are unconstitutional taken together as they violate the requirements of Article 13(2) of the Constitution, they make serious inroads into fundamental rights by treating unequals as equals and are unsustainably vague. This court rejected this submission and categorically observed that section 2(1)(e) does not suffer from any flaw and it is valid and constitutional. Unquestionably we are bound by this authoritative pronouncement of law.

17. However, we will have to refer to the judgment of the Supreme Court in ***Saiyada's case (supra)*** on which Mr. Sebastian has placed reliance to contend that constitutional validity of section 2(1)(e) can still be challenged because there is no indication in the judgment in ***Bharat Shah's case (supra)*** that any submissions were

made on the concept of insurgency. In ***Saiyada' s case (supra),*** notwithstanding the fact that the Constitution Bench had upheld the constitutionality of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, the petitioner had renewed his challenge that Parliament does not have the legislative competence to legislate on the subject of the said legislation. On facts before it, the Supreme Court held that since that specific aspect was not debated before the Constitution Bench in the earlier case, it would not be proper to shut out the petitioner from raising the plea by recourse to the argument that the point was concluded in the earlier case regardless whether the matter was debated or not.

18. In the later judgment in ***Kesho Ram's case (supra)***, a larger Bench of the Supreme Court has emphasized the binding nature of the Supreme Court judgments in the light of Article 141 of the Constitution and has held that the binding effect of a decision of the Supreme Court does not depend upon whether a particular argument was considered or not, provided the point with reference to which the argument is advanced subsequently was actually decided in the earlier decision.

19. Though we are of the considered opinion that in the facts of this case, the constitutional validity of section 2(1)(e) having been upheld by this court, it is not open to the petitioners to raise that challenge again, in the interest of justice, we propose to examine the challenge. It is not, therefore, necessary for us to consider the above judgments of the Supreme Court which have been relied upon by the learned counsel on this aspect.

20. It is the petitioners' case that `promoting insurgency' which appears in section 2(1)(e) of the MCOCA is covered by Entry No.1 of List I of the Seventh Schedule and, therefore, the State legislature could not have enacted section 2(1)(e) which takes within its ambit offence `prompting insurgency'. The petitioners are seeking declaration that the Maharashtra legislature did not have the legislative competence to legislate on `promoting insurgency' contained in section 2(1)(e) of the MCOCA since it comes under Entry No.1 of List I of the Seventh Schedule and, hence, it is ultra vires Article 246(3). The petitioners want section 2(1)(e) to be

struck down on that ground.

21. It is well settled that various entries in the three lists of the Seventh Schedule to the Constitution are legislative heads or fields of legislation. They demarcate the area over which appropriate legislature can operate. They neither impose any implied restriction on the legislative power conferred by Article 246, nor prescribe any duty to exercise that legislative power in a particular manner.

22. In ***India Cement Ltd. Etc. etc. v. State of Tamil Nadu, etc. AIR 1990 SC 85***, the Supreme Court observed as under :

> *"Wide amplitude should be given to the language of entries of seventh schedule of Constitution, but some of these entries in different lists or in the same List may overlap and sometimes may also appear to be in direct conflict with each other. Then, it is the duty of the court to find out its true intent and purpose and to examine a particular legislation in its pith and substance to determine whether it fits in one or the other of the lists. Each general word should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be comprehended in it."*

23. It is possible that some of the entries in the different lists or in the same list may overlap and may sometime appear to be in direct conflict with each other. Then it is the duty of the court to find out the true, intent and purpose and examine the legislation in its pith and substance to determine whether it fits in one or the other lists.

24. In ***Delhi Cloth & General Mills Co. Ltd. v. Union of India & Ors., AIR 1983 SC 937***, the Supreme Court observed as under :

> *"To resolve the controversy if it becomes necessary to ascertain to which entry in the three lists, the legislation is referable, the court has evolved the doctrine of pith and substance. If in the pith and substance, the legislation falls*

> *within one entry or the other but some portion of the subject matter of the legislation incidentally trenches upon and might enter a filed under another list, then it must held to be valid in its entirety, even though it might incidentally trench on matters which are beyond its competence."*

25. The Supreme Court has also made it clear that it is the duty of the court to reconcile the entries in case of a conflict. In ***Calcutta Gas Company Limited (Proprietary) Ltd. v. State of West Bengal & Ors., AIR 1962 SC 1044***, the Supreme Court has observed that it is the duty of the court to reconcile the entries and bring about harmony between them, the underlying principle being that a general power ought not to be so construed as to make a nullity of a particular power conferred by the same Constitution and operating in the same field, when by reading the former in a more restricted sense effect can be given to the latter in its ordinary and natural meaning. The Supreme Court has further observed that every attempt should be made to harmonize the apparently conflicting entries in the different lists or in the same list.

26. In ***ITC Ltd. v. State of Karnataka, 1985 Supp. SCC 476***, the

Supreme Court has also considered the effect of incidental overlap or entrenchment. The Supreme Court has held that if the entrenchment is minimal and does not affect the dominant part of some other entry, which is not within the competence of the State legislature, the Act may be upheld as constitutionally valid.

27. Keeping those principles in mind, we will have to approach this case.

28. Since the MCOCA is a State legislation, List II will have to be first seen. No other entry in List II except Entry No.2 which refers to `public order' could have been pressed into service by the respondents to contend that `promoting insurgency' is referable to that entry.

29. Our attention is drawn to the judgment of the Supreme Court in ***People Civil Liberties and Another v. Union of India, 2003 AIR SCW 7233***, where the Supreme Court has stated that the entry "public order" in the State List only empowers the States to enact a

legislation relating to public order or security so far as it relates to a particular State and however wide meaning is assigned to the Entry `public order', the present day problem of terrorism cannot be brought under the same. It is contended by Mr. Sebastian that similarly State legislature does not have the competence to enact a law relating to insurgency because insurgency does not come under Entry No.1 of the State List so long as `public order' is a disorder of much lesser gravity.

30. It is not necessary for us to go into this controversy because the stand of the respondents is that `promoting insurgency' would be covered by Entry No.1 of List III i.e. the Concurrent List.

31. Entry No.1 of List I i.e. Union List reads as under :

> *"1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilization."*

Reading of this entry makes it clear that Parliament has exclusive competence to make laws relating to defence of India and every part thereof.

32. Entry No.1 of List III i.e. the Concurrent List reads as under :

> *"1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power".*

This entry makes it clear that the State Legislature is competent to make laws in respect of criminal law including all matters included in the Indian Penal Code except in respect of those matters which are specifically excluded by this entry. The State legislature can, therefore, enact a law defining offences and providing punishment for them. Such laws can extend to matters included in the Indian Penal Code.

33. As stated by the Supreme Court in ***Delhi Cloth Mills' case (supra)***, to resolve the controversy as to in which entry in the three lists, the legislation is referable, the court must find out in which entry, in pith and substance, it falls. It is necessary, therefore, to examine this aspect.

34. The MCOCA is an Act to make provisions for prevention and control of, and for coping with criminal activity by organized crime syndicate or gang and for matters connected therewith or incidental thereto. It seeks to make special provisions for prevention and control of, and for coping with criminal activity by organized crime syndicate or gang or for matters connected therewith or incidental thereto. Statement of Objects and Reasons of the MCOCA, inter alia, states that organized crime has for quite some years now come up as a very serious threat to our society and there is reason to believe that organized criminal gangs are operating in the State and thus there is immediate need to curb their activities. The MCOCA defines `continuing criminal activity' and `organized crime' which includes `promoting insurgency' and lays down punishment for `organized crime'. It defines `organized crime syndicate' and

lays down punishment for possessing unaccountable wealth on behalf of members of organized crime syndicate. It has created a special machinery for trial of a series of offences created by it. In pith and substance, therefore, it falls in Entry No.1 of List III which refers to criminal law.

35. Under Entry No.1 of the Union List, Parliament may make laws with respect to Defence of India and every part thereof. It can incidentally also make a provision that would treat as a criminal offence an infraction of the law. Sometimes, there may be an incidental overlap or entrenchment between a State legislation and a Central legislation. Such incidental overlap would be permissible. In our opinion, in this case, there may be incidental overlap because insurgency has relevance to defence of India. However, this overlap does not affect the dominant part of Entry No.1 of List I. It does not invalidate section 2(1)(e). In view of the above, it is not necessary to examine Mr. Sebastian's contention that in any event `insurgency' comes within the ambit of the residuary power conferred on Parliament under Article 248 read with Entry No.97 of the Union List.

36. Mr. Sebastian also contended that part of section 2(1)(e) of the MCOCA with respect to `promoting insurgency' and the allied sections of the MCOCA to the extent they concern `promoting insurgency' are in conflict with the UAPA, 1967 as amended by Unlawful Activities (Prevention) Amendment Act, 2004 and, hence, they are repugnant to the said provisions and may be declared to be so. It is also contended that as per Article 254, the Unlawful Activities (Prevention) Amendment Act, 2004 which was incorporated in the UAPA, 1967 must prevail over the MCOCA so far as insurgency is concerned.

37. Article 254(1) enunciates the normal rule that in the event of a conflict between a Union law and a State law in the Concurrent field, the former prevails over the latter. Clause (2) thereof engrafts an exception that if the President assents to a State law, which has been reserved for consideration, it will prevail notwithstanding its repugnancy to the earlier law of the Union both dealing with the concurrent subject. It is common ground that the MCOCA has received Presidential assent.

38. The proviso to Article 254(2) empowers Parliament to repeal or amend repugnant State law even though it has become valid by virtue of Presidential assent. Such is not the case here. It is urged that even though subsequent law made by Parliament does not expressly repeal a State law, even then the State law will become void as soon as the subsequent law of Parliament creating repugnancy is made. It is, therefore, necessary to examine whether Unlawful Activities (Prevention) Amendment Act, 2004 incorporated in UAPA, 1967 is repugnant to the MCOCA so far as it refers to insurgency.

39. It is well settled that a State law would be repugnant to the Union law when there is direct conflict between the two laws. Such repugnancy may also arise where both laws operate in the same field and the two cannot possibly stand together. Since the stress is on the offence of `promoting insurgency' found in section 2(1)(e) of the MCOCA and `terrorist act' or `terrorism' as defined in the UAPA, 1967 as amended by the Unlawful Activities (Prevention) Amendment Act, 2004, it is necessary to understand the meaning of these terms.

40. Section 2(k) of the UAPA, 1967 reads as under :

> *"2(k). `terrorist act' has the meaning assigned to it in section 15 and the expression `terrorism' and `terrorist' should be construed accordingly."*

41. Section 15 defines `terrorist act' as under :

> *"15. Terrorist act.- Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the*

people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act".

42. The word `insurgent' is defined in the Oxford Dictionary (Ninth Edition) as `rising in active revolt'. The word `insurgency' is defined in Chambers Dictionary (Reprint 1996) as a rebellion. Insurgency is, therefore, one of the facets of terrorism.

43. Section 2(1)(e) of the MCOCA reads as under :

> *"2. **Definitions.** --- (1) In this Act, unless the context otherwise requires, -*
>
> *(a) x x x x x*
>
> *(b) x x x x x*
>
> *(c) x x x x x*
>
> *(d) x x x x x*
>
> *(e) "organised crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency".*

44. We have already referred to the Preamble, Statement of Objects and Reasons and relevant provisions of the MCOCA. We may reiterate that the MCOCA is enacted, inter alia, to take care of organized crime syndicate who indulge in organized crime. Though `promoting insurgency' is one of the facets of terrorism, offence of terrorism as defined in the UAPA Act as amended in 2004 is not identical to the offences under the MCOCA. It is not

possible to accept Mr. Sebastian's submission that the UAPA 1967 as amended in 2004 covers the whole field under Entry No.1 of List III and leaves no space for the MCOCA as terrorism and insurgency are synonymous and thus make the MCOCA impliedly repugnant. In any event, in our opinion, both the enactments can stand together as there is no conflict between the two. Section 2 (1)(e) of the MCOCA so far as it includes `promoting insurgency' does not impinge on the offence of `terrorism' as defined in the UAPA 1967 after its amendment in 2004. As we have already stated, there may be permissible incidental overlap, which does not create any repugnancy nor a situation of unworkability. Since in our opinion, there is no repugnancy between the MCOCA and the UAPA 1967 as amended in 2004, there is no question of any implied repeal.

45. We have already referred to the judgments of the Supreme Court which state that widest amplitude must be given to the entries in Seventh Schedule and it is the duty of the court to reconcile them and bring about harmony between them unless, of course, such an exercise is impossible.

46. Examined from all angles in the light of the principles laid down by the Supreme Court, we are of the opinion that there is no merit in the submissions of Mr. Sebastian. The petition must be dismissed and is dismissed accordingly.

[CHIEF JUSTICE]

[SMT. RANJANA DESAI, J.]